

(b) *Automatic expedition.* Cases initiated by employee contests and petitions for modification of abatement period shall be expedited.

(c) *Effect of ordering expedited proceeding.* When an expedited proceeding is required by these rules or ordered by the Commission, it shall take precedence on the docket of the Judge to whom it is assigned, or on the Commission's review docket, as applicable, over all other classes of cases, and shall be set for hearing or for the submission of briefs at the earliest practicable date.

(d) *Time sequence set by Judge.* The assigned Judge shall make rulings with respect to time for filing of pleadings and with respect to all other matters, without reference to times set forth in these rules, may order daily transcripts of the hearing, and shall do all other things appropriate to complete the proceeding in the minimum time consistent with fairness.

§ 2200.104 Standards of conduct.

(a) *General.* All representatives appearing before the Commission and its Judges shall comply with the letter and spirit of the Model Rules of Professional Conduct of the American Bar Association.

(b) *Misbehavior before a Judge—(1) Exclusion from a proceeding.* A Judge may exclude from participation in a proceeding any person, including a party or its representative, who engages in disruptive behavior, refuses to comply with orders or rules of procedure, continuously uses dilatory tactics, refuses to adhere to standards of orderly or ethical conduct, or fails to act in good faith. The cause for the exclusion shall be stated in writing, or may be stated in the record if the exclusion occurs during the course of the hearing. Where the person removed is a party's attorney or other representative, the Judge shall suspend the proceeding for a reasonable time for the purpose of enabling the party to obtain another attorney or other representative.

(2) *Appeal rights if excluded.* Any attorney or other representative excluded from a proceeding by a Judge may, within five days of the exclusion, appeal to the Commission for reinstatement. No proceeding shall be de-

layed or suspended pending disposition of the appeal.

(c) *Disciplinary action by the Commission.* If an attorney or other representative practicing before the Commission engages in unethical or unprofessional conduct or fails to comply with any rule or order of the Commission or its Judges, the Commission may, after reasonable notice and an opportunity to show cause to the contrary, and after hearing, if requested, take any appropriate disciplinary action, including suspension or disbarment from practice before the Commission.

(d) *Show cause orders.* All show cause orders issued by the Commission or Judge under paragraph (c) of this section shall be served upon the affected party by certified mail, return receipt requested.

[51 FR 32015, Sept. 8, 1986, as amended at 55 FR 22783, June 4, 1990]

§ 2200.105 Ex parte communication.

(a) *General.* Except as permitted by § 2200.101 or as otherwise authorized by law, there shall be no ex parte communication with respect to the merits of any case not concluded, between any Commissioner, Judge, employee, or agent of the Commission who is employed in the decisional process and any of the parties or intervenors, representatives or other interested persons.

(b) *Disciplinary action.* In the event an ex parte communication occurs, the Commission or the Judge may make such orders or take such actions as fairness requires. The exclusion of a person by a Judge from a proceeding shall be governed by § 2200.104(b). Any disciplinary action by the Commission, including suspension or disbarment, shall be governed by § 2200.104(c).

(c) *Placement on public record.* All ex parte communications in violation of this section shall be placed on the public record of the proceeding.

§ 2200.106 Amendment to rules.

The Commission may at any time upon its own motion or initiative, or upon written suggestion of any interested person setting forth reasonable grounds therefor, amend or revoke any

of the rules contained herein. The Commission invites suggestions from interested parties to amend or revoke rules of procedure. Such suggestions should be addressed to the Executive Secretary of the Commission at One Lafayette Centre, 1120-20th Street NW., 9th Floor, Washington, DC 20036-3419.

[51 FR 32015, Sept. 8, 1986, as amended at 58 FR 26065, Apr. 30, 1993]

§ 2200.107 Special circumstances; waiver of rules.

In special circumstances not contemplated by the provisions of these rules and for good cause shown, the Commission or Judge may, upon application by any party or intervenor or on their own motion, after 3 working days notice to all parties and intervenors, waive any rule or make such orders as justice or the administration of the Act requires.

[57 FR 41688, Sept. 11, 1992]

§ 2200.108 Official Seal of the Occupational Safety and Health Review Commission.

The seal of the Commission shall consist of: A gold eagle outspread, head facing dexter, a shield with 13 vertical stripes superimposed on its breast, holding an olive branch in its claws, the whole superimposed over a plain solid white Greek cross with a green background, encircled by a white band edged in black and inscribed "Occupational Safety and Health Review Commission" in black letters.

[51 FR 32015, Sept. 8, 1986; 52 FR 13832, Apr. 27, 1987]

Subpart H—Settlement Part

SOURCE: 64 FR 8246, Feb. 19, 1999, unless otherwise noted.

§ 2200.120 Settlement part.

(a) *Applicability.* This section applies only to notices of contest by employers in which the aggregate amount of the penalties sought by the Secretary is \$200,000 or greater and notices of contest by employers which are determined to be suitable for assignment under this section for reasons deemed appropriate by the Chief Administrative Law Judge.

(b) *Proceedings under this Part.* Notwithstanding any other provisions of these rules, upon the docketing of the notice of contest or at such other time as he deems appropriate the Chief Administrative Law Judge shall assign to the Settlement Part any case which satisfies the criteria set forth in paragraph (a) of this section. The Chief Administrative Law Judge shall either act as or appoint a Settlement Part Judge, who shall be a Judge other than the one assigned to hear and decide the case, to conduct proceedings under the Settlement Part as set forth in this section.

(c) *Powers and duties of Settlement Part Judges.* (1) The Judge shall confer with the parties on subjects and issues of whole or partial settlement of the case.

(2) The Judge shall seek resolution of as many of the issues in the case as is feasible.

(3) The Judge may require the parties to provide statements of the issues in controversy and the factual predicate for each party's position on each issue or may enter other orders as appropriate to facilitate the proceedings.

(4) The Judge may allow or suspend discovery during the time of assignment.

(5) The Judge may suggest privately to each attorney or other representative of a party what concessions his or her client should consider, and assess privately with each attorney or other representative the reasonableness of the party's case or settlement position.

(d) *Settlement conference*—(1) *General.* The Settlement Part Judge shall convene and preside over conferences between the parties. All settlement conferences shall be held in person. The Judge shall designate a place and time of conference.

(2) *Participation in conference.* The Settlement Part Judge may require that any attorney or other representative who is expected to try the case for each party be present. The Settlement Part Judge may also require that the party's representative be accompanied by an official of the party having full settlement authority on behalf of the party. The parties and their representatives or attorneys are expected to be completely candid with the Settlement Part Judge so that he may properly